

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

THE STATE OF NEW MEXICO ex rel.
GOVERNOR BILL RICHARDSON, et al.,
Plaintiffs,

v.

BUREAU OF LAND MANAGEMENT, et al.,
Defendants,

and

INDEPENDENT PETROLEUM ASSOCIATION
OF NEW MEXICO,
Intervenor.

NEW MEXICO WILDERNESS ALLIANCE,
et al.,
Plaintiffs,

v.

LINDA RUNDELL, et al.,
Defendants,

and

INDEPENDENT PETROLEUM ASSOCIATION
OF NEW MEXICO,
Intervenors.

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No. 05cv00460 BB/RHS and
INDEPENDENT PETROLEUM ASSOCIATION

No. 05cv00588 BB/RHS
(Consolidated)

NEW MEXICO COMMISSIONER OF PUBLIC LANDS' PROPOSED
FINDINGS OF FACT AND CONCLUSIONS OF LAW
ON THE COMMISSIONER'S MOTION TO INTERVENE

Applicant for Intervention, Patrick H. Lyons, Commissioner of Public Lands for the State of New Mexico ("Commissioner"), hereby submits the following proposed Findings of Fact and Conclusions of Law.

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I. FINDINGS OF FACT.

A. The Commissioner timely filed a Motion seeking intervention in these consolidated cases as of right under Fed. R. Civ. P. 24(a), or in the alternative, permissive intervention under Fed. R. Civ. P. 24(b).

B. The Commissioner is a constitutional officer of the State of New Mexico; elected by the people and is charged with the management, care, custody, control and disposition of the state trust lands. *See* N.M. Const., art. XIII, § 2, NMSA 1978, § 19-1-1, *et seq.*

C. The Commissioner sought intervention for the purpose of filing a brief supporting the Bureau of Land Management's ("BLM") Resource Management Plan Amendment for Federal Fluid Minerals Leasing and Development in Sierra and Otero Counties ("RMPA") and the Record of Decision (the "ROD"), which are the subject of this litigation.

D. The Commissioner's authority over state trust lands includes the power to enter into cooperative agreements for joint development of state lands with oil and gas lessees of federal lands which are the subject of the RMPA and the ROD. State trust lands located in the greater Otero Mesa area are intermingled with federal lands managed by the BLM in a "checkerboarded" pattern. Oil and gas development on state trust lands could be effected by the decisions of this Court in this litigation regarding the RMPA and the ROD.

II. CONCLUSIONS OF LAW.

A. At present, the Commissioner's objectives in this litigation coincide with the position taken by the BLM and therefore, the Commissioner bears the burden of showing that the BLM will not adequately represent his interests in this litigation. *San Juan County, Utah, v. United States*, 420 F.3d 1197, 1211, 2005 WL 2083032 (10th Cir.).

B. The Commissioner's interests are adequately represented by Defendant BLM at this time.

WHEREFORE, the Commissioner respectfully requests that this Court enter the above Findings of Fact and Conclusions of Law.

Respectfully submitted,



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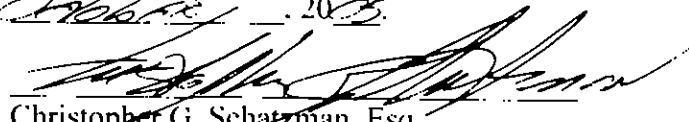
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CERTIFICATE OF SERVICE

I certify that I caused a copy of the above pleading to be sent to all counsel of record, as appear below, by United States mail, first class, postage pre-paid on this 3rd day of October, 2005.


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